



**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**24 CFR Part 954**

**[Doc. No. FR-5568-F-01]**

**RIN 2577-AC87**

**Removal of the Indian HOME Investment Partnerships Program Regulation**

**AGENCY:** Office of the Assistant Secretary for Public and Indian Housing, HUD.

**ACTION:** Final rule.

**SUMMARY:** This final rule removes HUD's outdated regulations for the Indian HOME Investment Partnerships (Indian HOME) program. Under the Indian HOME program, HUD awarded funds competitively to eligible applicants to provide affordable housing. The Indian HOME program was replaced by the Indian Housing Block Grant (IHBG) program established under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA). However, HUD retained the Indian HOME program regulations because they continued to govern grants awarded prior to the enactment of NAHASDA. Since September 30, 1997, HUD has not awarded grants under the Indian HOME program and, therefore, the regulations are no longer necessary.

**DATES:** Effective Date: **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].**

**FOR FURTHER INFORMATION CONTACT:** Rodger J. Boyd, Deputy Assistant Secretary for Native American Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW, Room 4126, Washington, DC 20410, telephone number 202-401-7914 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number through TTY by calling the toll-free Federal Relay Service

at 800-877-8339.

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

#### **A. The Indian HOME Investment Partnerships Program**

The HOME Investment Partnerships Act (Title II of the Cranston-Gonzales National Affordable Housing Act (Pub. L. 101-925, approved November 28, 1990; 42 U.S.C. 12701 etseq.)) established the HOME Investment Partnerships program (HOME program) and its subsidiary Indian HOME program. The HOME program regulations are codified at 24 CFR part 92. The HOME program provides grants to state and local governments to fund activities that build, buy, or rehabilitate affordable housing or provide direct rental assistance. The HOME program is the largest federal block grant to states and localities designed exclusively to create affordable housing for low-income households.

Each fiscal year, one percent of the funds appropriated for the HOME program were allocated to the Indian HOME program. The Indian HOME program awarded competitive grants to eligible applicants to increase affordable housing for low-income and very low-income persons. Eligible applicants for Indian HOME program funds included any Indian Tribe, band, group, or nation. The Indian HOME program regulations are codified in 24 CFR part 954. Under the Indian HOME program, grant recipients could use funds for housing rehabilitation, acquisition of housing, new housing construction, and tenant-based rental assistance. Assistance was provided in the form of loans, advances, equity investments, interest subsidies, and other forms of investment that HUD approved.

#### **B. The Native American Housing Assistance and Self-Determination Act and the Indian Housing Block Grant Program**

NAHASDA (25 U.S.C. 4101 et seq.) reorganized federal housing assistance to Native Americans by eliminating several separate programs of assistance and replacing them with the IHBG program, a single block grant program that recognizes the right of Indian self-determination and tribal self-governance. The Indian HOME program was one of the programs that was terminated and replaced with the new block grant program under NAHASDA.

The IHBG program supports a range of affordable housing activities on Indian reservations and Indian areas. Eligible IHBG recipients include federally recognized Indian tribes or their tribally designated housing entity, and a limited number of state recognized tribes. IHBG funds must be used to develop or support rental or homeownership opportunities or provide housing services to benefit low-income Indian families. Eligible IHBG activities include modernization or operating assistance for housing previously developed using HUD assistance; acquisition, new construction, or rehabilitation of additional units; housing-related services such as housing counseling, self-sufficiency services, energy auditing, and establishment of resident organizations; housing management services; crime prevention and safety activities; rental assistance; model activities; and administrative expenses.

When NAHASDA was enacted and the IHBG program was created, previously awarded Indian HOME grants continued to be governed by the provisions of the statutes and regulations governing the program in effect at the time of funding. When funded activities were completed, Indian HOME grants were closed in accordance with their program requirements and grant agreements. As a result, HUD initially retained the Indian HOME program regulations because they continued to govern these previously awarded grants. As intended by NAHASDA, grants under the IHBG program have now replaced Indian HOME program grants.

C. Executive Order 13563 on Improving Regulation and Regulatory Review

On January 18, 2011, President Obama issued Executive Order 13563, “Improving Regulation and Regulatory Review” (see 76 FR 3821, January 21, 2011). The Executive Order requires federal agencies to coordinate, simplify, and harmonize regulations to reduce costs and promote certainty for businesses and the public. Section 6 of this Executive Order requires agencies to review existing significant regulations to determine if they are outmoded or ineffective. In response to the Executive Order, HUD is working to ensure that all of its regulations are updated and remain necessary. As discussed, the regulations pertaining to the terminated Indian HOME program are no longer necessary.

## **II. This Final Rule**

This final rule responds to the mandate in Executive Order 13563 by removing regulations for a program that is now obsolete. Part 954 of title 24 of the Code of Federal Regulations governs the Indian HOME program. At this time, the Indian HOME program no longer awards grants. This final rule removes all regulations pertaining to the Indian HOME program because it no longer exists. However, Indian HOME grantees are still required to comply with any statutory and regulatory requirements that continue to apply beyond the close-out date of an Indian HOME grant, such as ensuring compliance with applicable affordability requirements. Continued affordability for HOME rental housing projects is required by 42 U.S.C. 12745(a)(1)(E), as implemented by 24 CFR 92.252(e) and 954.306(a)(5).

## **III. Justification for Final Rulemaking**

In general, HUD publishes a rule for public comment before issuing a rule for effect, in accordance with HUD’s regulations on rulemaking at 24 CFR part 10. Section 10.1 of part 10, however, provides for exceptions from that general rule where HUD finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when the public

procedure is “impracticable, unnecessary, or contrary to the public interest.” HUD finds that good cause exists to publish this rule for effect without soliciting public comment on the basis that public procedure is unnecessary. After all, the purpose of this final rule is to remove all regulations pertaining to a program that is obsolete. The Indian HOME program in part 954 was replaced by the IHBG program. Public comment is unnecessary because this final rule updates the HUD regulations to reflect that the Indian HOME program no longer exists, and there is no exercise of agency discretion upon which the public could comment.

#### **IV. Findings and Certifications.**

##### Executive Order 13132, Federalism

Executive Order 13132 (entitled "Federalism") prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on state and local governments and is not required by statute, or the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive Order.

##### Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C.1531-1538) (UMRA) establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments, and on the private sector. This rule does not impose any federal mandates on any state, local, or tribal governments, or on the private sector, within the meaning of UMRA.

##### Environmental Impact

This final rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(1), this rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Accordingly, under the authority of 42 U.S.C. 35335(d) and 25 U.S.C. 4101 et seq., HUD amends 24 CFR chapter IX by removing part 954, as follows:

**PART 954 – [REMOVED]**

1. Remove part 954.

Date: February 1, 2012

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and Indian Housing

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